

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

YOIL WEINGARTEN, SHMIEL WEINGARTEN,  
and YAKOV WEINGARTEN,

Defendants.

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S3 19-CR-497 (06) (07) (08) (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

On July 8, 2019, Defendants Shmiel, Yakov, and Yoil Weingarten were charged by indictment with, *inter alia*, various counts of international kidnapping and conspiracy to commit international parental kidnapping. (ECF No. 52.) Defendants were charged with six other co-defendants, Defendants Nachman Helbrans, Mayer Rosner, Aron Rosner, Jacob Rosner, Matityau Moshe Malka, and Mordechai Malka (together, the “Former Defendants”), whose cases have all reached a disposition. On May 10, 2022, the Court granted Defendants Shmiel and Yakov Weingarten’s request to proceed *pro se* and appointed their current Criminal Justice Act (“CJA”) counsel as standby counsel. (ECF Nos. 622, 623.) On November 2, 2022, the Court did the same for Yoil Weingarten. (ECF No. 767.) On March 10, 2023, the Court scheduled a four-week jury trial for February 27, 2024, and ordered Defendants to file pretrial motions by May 25, 2023. (Minute Entry dated 3/10/2023.)

On May 16, 2023, Yoil Weingarten filed a motion requesting an extension of the deadline for pretrial motions until September 2023. (ECF No. 847.) On May 22, 2023, Shmiel Weingarten likewise filed a motion asking for an extension until September 2023. (ECF No. 853.) In response, the Court extended Defendants’ deadlines to file pretrial motions until July 10, 2023. (ECF No. 854.)

On July 10, 2023, Defendant Yoil Weingarten filed a letter motion (1) raising concerns about resources available as an incarcerated *pro se* defendant for discovery review and motion drafting, and (2) “adopt[ing] all arguments . . . advanced by the previous co-defendants and their attorneys.” (ECF No. 859.) Defendants Shmiel and Yakov Weingarten sought to join Defendant Yoil Weingarten’s letter motion. (ECF Nos. 861, 867.) The Court ordered the Government to respond, which it did on July 14, 2023. (ECF No. 864.)

On July 17, 2023, the Court construed Defendant Yoil Weingarten’s letter as a request for an extension of time to file pretrial motions and granted him a second extension of time to file his motions until September 30, 2023. (ECF No. 865.) On August 7, 2023 and August 18, 2023, respectfully, the Court similarly provided a second extension to Defendants Yakov and Shmiel Weingarten. (ECF Nos. 868, 874.) At a status conference held on September 7, 2023, the Court extended the Defendants’ deadline to file pretrial motions for a third time until November 15, 2023. (ECF No. 882.)

On November 15, 2023, rather than file pre-trial motions, Defendants filed identical letter motions again raising the issue of “limited internet access, translation software and printing capabilities.” (ECF Nos. 903, 904, and 909.) Defendants also “adopt[ed] *all* legal arguments (not the facts) advanced by the other co-defendants, including but not limited to the arguments mentioned in ECF nos. 123, 133, 190, 191, 316-320, and 544.” (*Id.*) (emphasis in original). Defendants are referring to the Former Defendants’ pretrial motions to dismiss the indictment and orders directing various pre-trial disclosures (ECF Nos. 131, 133, 190, 191); letters from the Former Defendants setting forth pre-trial motions they intend to file (ECF Nos. 316-320); and Defendants Matityau Malka and Mordechay Malka’s motion to dismiss the indictment and reply to the Government’s opposition to motion in limine. (ECF No. 544.) In light of Defendants’ *pro*

*se* status, the Court directed the Government to respond, and the Government did on November 17, 2023. (ECF No. 912.)

Defendants have had well over a year to submit pre-trial motions. From the outset, when granting Defendants' request to proceed *pro se*, the Court advised the Defendants that they would experience some limitations due to their detention. In light of these limitations, the Court facilitated Defendants acquiring resources to support them in preparing their defense. On May 22, 2022, the Court issued an Order permitting Defendants Shmiel and Yakov Weingarten to use CJA funds to procure laptops, necessary hard drives, software programs, charging cables, or adapters. (ECF No. 624.) On November 7, 2022, the Court issued the same Order for Yoil Weingarten. (ECF No. 770.) Since then, the Court has repeatedly addressed the issues regarding translation software, printing, and internet access. (See Minute Entries dated 7/18/2022, 11/02/2022, 03/10/2023; ECF Nos. 827, 874.) At the September 7 conference, the Court reiterated that Defendants should seek assistance from standby counsel for any issues with printing or filing. (See Minute Entry dated 09/07/2023.) Since initially setting a deadline of May 25, 2023, the Court has granted three extensions for Defendants to file pre-trial motions, providing nearly six months of additional time.

The Court thus determines that Defendants' time for filing pre-trial motions has expired. Fed. R. Crim. P. 12(c)(3) ("If a party does not meet the deadline for making a Rule 12(b)(3) motion, the motion is untimely."). However, the Court will allow Defendants to adopt the legal arguments of the Former Defendants. The Court leaves it to the Government's discretion whether to file papers opposing Defendants' arguments. If the Government decides to do so, it is directed to file its opposition papers by December 11, 2023. If the Government files opposition papers, Defendants are directed to file reply papers, either jointly or individually, no later than January 16, 2024.

Standby Counsel are directed to serve a copy of this endorsement on their respective *pro se* Defendant by any means necessary and to file proof of service.

Dated: November 20, 2023  
White Plains, New York

SO ORDERED:

A handwritten signature in blue ink, appearing to read 'N. Román', is written over a horizontal line.

NELSON S. ROMÁN  
United States District Judge